

1 MR. SCHAUBLE: Your Honor --

2 JUDGE CHACHKIN: Do you want any entity or person or
3 you're interested in gifts or loans exceeding \$100? It says
4 from NMTV or Trinity to any entity or person or are you
5 interested only those who have some connection with the, with
6 the applicant? It seems to me that's your only concern as far
7 as gifts or loans if they've made any between some involved
8 party, not members of the public. What's would that give you?

9 MR. SCHAUBLE: Your Honor, we can --

10 MR. HONIG: Your Honor?

11 JUDGE CHACHKIN: Yes.

12 MR. HONIG: May I -- maybe I've lived with the case
13 longer, but if I could try to be helpful. I didn't ask for
14 this, but I think it's -- there is some middle ground that
15 might be appropriate. One of the questions in this case goes
16 to the independence or lack of independence of NMTV.
17 Apparently some of the fund raising, for example, in
18 connection with the proposed acquisition of the Philadelphia
19 station, involved the question of whether viewers were sending
20 money to NMTV specifically or to Trinity, and there are
21 questions relating to whether NMTV receives money directly,
22 receives it from Trinity, what is the formula and how are the
23 checks actually handled.

24 I think, therefore, it would be important to at
25 least know the volume of the contributions and how much of

1 | those contributions were directed to NMTV specifically or did
2 | the viewers earmark the contributions for NMTV. I would
3 | agree, however, that the names of the donors are unnecessary.
4 | It could be Donor A, Donor B and so forth.

5 | MR. MAY: May I respond to that?

6 | JUDGE CHACHKIN: Yes.

7 | MR. MAY: That was a specific issue requested by the
8 | Spanish American League in this case and it was specifically
9 | denied by the Commission when it issued the Hearing
10 | Designation Order. There is no fraudulent fund raising
11 | question in this case. There is no question in this case as
12 | to whether or not there is any impropriety in connection with
13 | the way in which these organizations have raised any money
14 | and, with all due respect to Mr. Honig, he raised that
15 | question before and the Commission specifically rejected it.
16 | We don't think it would be appropriate now to try to get back
17 | into it and we do believe that it presents a very large
18 | fishing expedition which is troubling. For example --

19 | JUDGE CHACHKIN: I don't think you heard what he
20 | said. He's not talking about -- he's --

21 | MR. HONIG: I'm not concerned with the money being
22 | sent back from Trinity or NMTV repaying people for the
23 | Philadelphia acquisition. I'm talking about the question of
24 | whether people send money to NMTV or to Trinity and then how
25 | does it get diverted into the pipeline. I agree with counsel

1 | that the question of where the money was, was retained or not
2 | isn't an issue in this case.

3 | JUDGE CHACHKIN: Well, D it seems to me takes care
4 | of that. D is donation practices and policies, gift and fund
5 | raising practices and policies of NMTV and Trinity, and B
6 | which is no objection to is cash management, investment,
7 | accounting and bookkeeping policies and practices of NMTV and
8 | Trinity. It seems to me your concern is dealt with in D and
9 | E. All I would imagine A and B are concerned with if there
10 | have been any gifts and loans between Trinity people and NMTV
11 | people, either being made to them or they're making gifts to
12 | individuals.

13 | MR. MAY: And those are covered under other
14 | requests, loans between the organizations and funding between
15 | the two organizations.

16 | JUDGE CHACHKIN: That's -- it would seem to me --
17 | all right. Then apparently there's been agreement that --
18 | between the members of the organizations. That's all they're
19 | asking for.

20 | MR. MAY: So am I to understand then, Your Honor,
21 | their Request 5A and B is denied, but D --

22 | JUDGE CHACHKIN: Well, wait a minute. It's not
23 | denied, but you say it's covered under something else. It's
24 | just, it's just loans and gifts between NMTV and Trinity
25 | employees and principles, things of that nature.

1 MR. MAY: But no requirement to provide information
2 on gifts and loans exceeding \$100 to NMTV and Trinity from any
3 entity or person other than the officers and directors -

4 JUDGE CHACHKIN: Or employees. Or employees, I
5 would say.

6 MR. MAY: Or employees of either of those
7 organizations?

8 JUDGE CHACHKIN: Of those organizations, yes, but
9 other members -- outside members of the public, disinterested,
10 he's not, he's not required to submit any type of information.

11 MR. SCHAUBLE: However, Your Honor, with respect to
12 under D and E, they will be required to submit information
13 concerning the implementation of those policies.

14 JUDGE CHACHKIN: Well, they, they have no objection
15 to that. If there are any loans and gifts between officers
16 and employees -- principles, officers and employees, then of
17 those two entities I think they're entitled to see them.

18 MR. MAY: Prior to today, Your Honor, there's been a
19 good deal of discussion between the parties on trying to limit
20 down areas and now you've just indicated employees. Can you
21 say current employees or do you want to know all past
22 employees of this organization because Trinity, which is a
23 defined term, includes a number of companies spread out from
24 east to west, north and south, and has literally had hundreds
25 and hundreds of employees through the years and tracking down

1 that information --

2 MR. SCHAUBLE: We have -- Your Honor, we would be
3 willing to live with present employees -- limit it to present
4 employees and present and former officers and directors.

5 JUDGE CHACHKIN: All right. Present employees and
6 present and former officers and directors.

7 MR. MAY: Could I then just get a little indulgence
8 that you'd give us a few days to provide that material --

9 MR. COHEN: Sure, of course, absolutely.

10 MR. MAY: -- because clearly we have to cull through
11 a lot of documents just to get that material.

12 JUDGE CHACHKIN: You mean as far as employees?

13 MR. MAY: Yes, sir.

14 JUDGE CHACHKIN: All right.

15 MR. SCHAUBLE: No objection.

16 JUDGE CHACHKIN: In other words, you could submit
17 the other documents which -- and as far as those documents are
18 concerned you could take a little more time on them. All
19 right. Is that it?

20 MR. MAY: There's one remaining request, Your Honor,
21 Glendale Request 18.

22 JUDGE CHACHKIN: Let's see that, 18. All right.

23 MR. MAY: On that page, 9. We believe that this is
24 a pure fishing expedition. It has not been justified and it
25 appears that what they want to do is establish some "pattern

1 of conduct," and I would just say that the logical extension
2 of that argument is that in this case, since we have a
3 misrepresentation, lack of candor issue against -- Company
4 which is owned by Mr. Gardner and Mr. Gardner is the primary
5 stockholder, that we would then have the right to go ahead and
6 challenge every representation he's ever made to the agency to
7 determine if there's been a "pattern of conduct."

8 JUDGE CHACHKIN: Well, I don't --

9 MR. MAY: There's one other addition, Your Honor,
10 and that is that in the Petition to Deny in Miami's renewal
11 application which was filed by Glendale they specifically
12 requested authority to be able to go and examine the
13 relationship Trinity had with other affiliates, as it were,
14 including All American Television. That was on -- in footnote
15 12 of their Petition to Deny which was filed December 27,
16 1991. That was in front of the Commission when it issued its
17 Hearing Designation Order and it simply noted the issues to
18 these parties and to no other parties. We, therefore, think
19 it is overbroad and is designed purely as a fishing
20 expedition.

21 MR. SCHAUBLE: Your Honor, may I respond?

22 JUDGE CHACHKIN: Yes.

23 MR. SCHAUBLE: Another point that we made in the
24 Motion to Compel is -- you know, one of the essential issues
25 here is NMTV -- you know, Trinity in opposing Glendale's

1 | Petition to Deny Predesignation suggested that NMTV was
2 | nothing more than another network affiliated with TBM. In
3 | order to test that assertion I think we need some limited
4 | discovery in terms of how Trinity interacts with its other
5 | affiliates to get a base line in order to determine, you know,
6 | what is the typical NMTV relationship. I think, if nothing
7 | else, it should be clearly relevant to, to the question of
8 | Trinity's intent which is probably going to be -- have to be
9 | resolved especially under the -- process issue which was
10 | separately added by the Commission.

11 | JUDGE CHACHKIN: Well, my concern, if you only had
12 | affiliates in mind, why do you bring something so broadly to
13 | say other licensees and other -- I mean, where is that
14 | reflected? 18?

15 | MR. SCHAUBLE: Your Honor, we would be willing to
16 | limit it to Commission licensees, permittees or applicants who
17 | are affiliates of the --

18 | JUDGE CHACHKIN: Well, that would have made sense,
19 | but --

20 | MR. SCHAUBLE: -- Trinity Broadcasting Network.

21 | JUDGE CHACHKIN: -- why frame it in such a way --

22 | MR. SCHAUBLE: Poorly drafted. I take
23 | responsibility, Your Honor.

24 | JUDGE CHACHKIN: Which is it was a Commission
25 | licensee, permittee or applicant. Whether or not they were

1 affiliated in any way doesn't make sense to me when I see
2 something like that.

3 MR. COHEN: Poorly drafted.

4 JUDGE CHACHKIN: Now, you have an objection to the
5 documents -- if the document request is limited to any -- to
6 an affiliate?

7 MR. COHEN: Or applicants --

8 MR. SCHAUBLE: Licensees, permittees and --

9 JUDGE CHACHKIN: In other words, all documents --
10 since September 1980 which relate to gifts and loans from
11 Trinity to any affiliate, gifts and loan --

12 MR. MAY: You mean program affiliates?

13 JUDGE CHACHKIN: Wait a minute. Well, that's
14 another -- we're talking about affiliates.

15 MR. SCHAUBLE: It says programming affiliates of
16 Trinity Broadcasting -- of the Trinity Broadcasting Network.

17 JUDGE CHACHKIN: Well, the issue is the way they're
18 framed as issues 1 and -- A and B talk about determine where
19 the -- Trinity Christian Center of Santa Anna, Inc. doing
20 business with Trinity Broadcasting Network or its affiliates,
21 and A and B talks about its affiliates. Now, when we're
22 talking about affiliates here, what do we mean by affiliates?
23 What affiliates are you talking about?

24 MR. COHEN: We thought we were using the term that
25 the Commission's using, Your Honor, but we would have no

1 objection to refining that if you think it's appropriate, and
2 that's what I gather you were just doing.

3 JUDGE CHACHKIN: Well, I have no problem with using
4 it the way the Commission's using it, but are you saying the
5 Commission's -- how is the Commission using it then?

6 MR. MAY: Well, I believe it's pretty clear that the
7 Commission's using it to indicate that Trinity and its
8 affiliates means Trinity Broadcasting of Florida, Trinity
9 Broadcasting of Texas, Trinity Broadcasting of Arizona,
10 Trinity Broadcasting of Indiana, Trinity Broadcasting of New
11 York, Trinity Broadcasting of Washington, etc.

12 JUDGE CHACHKIN: That's not the way we read it at
13 all. We didn't, we didn't read it that way. We read it -- an
14 affiliate meaning the various entities throughout the country
15 with whom they have an affiliation agreement. That's what we
16 think the Commission meant. That's what we meant.

17 MR. MAY: Well, that was the question I asked,
18 program affiliate, and I think program affiliate is something
19 we could live with, Your Honor, and that would make it clear
20 and I should have put that in the original request and that
21 was my error in drafting.

22 JUDGE CHACHKIN: You're talking about entities which
23 the only relationship that Trinity -- or to NMTV is because
24 they take programming from Trinity?

25 MR. COHEN: Programming -- that's my understanding

1 of what the affiliate relationship is centered on.

2 MR. SCHAUBLE: But there may be additional
3 relationships within that, Your Honor.

4 MR. COHEN: Yeah, that's right and that's part of
5 our reason for that request.

6 JUDGE CHACKIN: And your view is that by affiliate
7 the Commission was limiting it to entities who, who may be
8 controlled or -- a legal relationship --

9 MR. SHOOK: Your Honor?

10 JUDGE CHACKIN: -- within NMTV? What does the
11 Bureau say?

12 MR. SHOOK: It's my understanding that the word
13 affiliate as used in the Hearing Designation Order was those
14 very small number, probably about six or seven, other Trinity
15 names, entities, such as those named by Mr. May, who are not
16 only affiliated, as that term is commonly understood, but are
17 -- you know, have a common ownership and officer structure.
18 The term --

19 JUDGE CHACKIN: Ownership of some kind.

20 MR. SHOOK: Yes, sir. The term affiliate I believe
21 that is being used by Glendale is meant to be that of a
22 program affiliate which, you know, if you visualize say the
23 CBS network, there are perhaps, you know, several hundred
24 stations across the country that would be a program affiliate
25 of CBS. My understanding from what Glendale is asking is that

1 they are seeking information relative to perhaps 100 or 150 or
2 however many program affiliates there may be of Trinity
3 throughout the country.

4 MR. SCHAUBLE: Your Honor --

5 JUDGE CHACHKIN: And what is the Bureau's view? Is
6 that relevant?

7 MR. SHOOK: There is -- there does appear to me to
8 be a connection. There is, there is a relevance connection.
9 The question is whether all such documents should be produced.
10 At that point you do start to reach the overbroad question.
11 But the basic relevance connection, I think that that --

12 MR. SCHAUBLE: Your Honor, we have -- I think we
13 filed with limitation -- I think we filed a fairly focused
14 document request. We're not seeking every single document
15 relating to the relationship. We put it in terms of --
16 specifically in terms of a financial relationship, i.e, gifts
17 and loans from Trinity to these entities, and so, and so, you
18 know, I don't think it can be argued with searching off on a
19 fishing expedition, but we have a focused document request
20 here which specifically -- and specifically looking for a
21 pattern and looking for similarities of the relationship
22 between TBM, NMTV and other program affiliates of the Trinity
23 Broadcasting Network which is particularly relevant to the
24 abuse of process issue.

25 MR. COHEN: Your Honor, what we're searching for,

1 and I don't want to be coy, what we're searching for here is
2 not -- this is not speculation. We are looking to see whether
3 there were relationships, fiscal relationships, gifts, which
4 bound otherwise nominally separate entities to, to Trinity
5 and, if so, that certainly would be relevant under the abuse
6 of process and the control issue because that would show a
7 real pattern of conduct for you to evaluate the relationship
8 of NMTV and Trinity.

9 This is not speculation. This is not, this is not
10 fishing. We're, we're looking for focused information. We're
11 not interested in all of the communications between Trinity's
12 affiliates and Trinity. We're looking for the kind of
13 information I just described, nothing more.

14 JUDGE CHACHKIN: All they're looking for is
15 documents relating to gifts and loans from Trinity to any of
16 its affiliates.

17 MR. MAY: Well, to be -- quite frankly, Your Honor,
18 I'm not sure I follow all -- where we're trying to end up with
19 this. The request itself we objected to as being overly broad
20 and we believe involved in sort of a fishing expedition.
21 They've now tried to come back and sort of pare down the
22 universe and, and I'm trying to grasp what that universe is
23 now. They're -- it's not affiliates as we had understood and
24 apparently the Bureau had understood that to mean as in the
25 Hearing Designation Order, but now we're talking about people

1 that have program affiliation agreements with the network.

2 JUDGE CHACHKIN: Who they've made -- who --

3 MR. MAY: And which of those affiliates have
4 received gifts or loans from Trinity, and that's very focused.

5 JUDGE CHACHKIN: That's right.

6 MR. COHEN: Now it's focused, but before what we had
7 was sort of --

8 JUDGE CHACHKIN: Well, I understand. It was much
9 too broad, but now it's focused to just gifts or loans from
10 Trinity to any of its affiliates, as we understand affiliates
11 to mean with CBS and its affiliates. That's what we're
12 talking about here. I'll grant the Motion to Compel insofar
13 as that the question has now been focused.

14 MR. SCHAUBLE: Thank you.

15 JUDGE CHACHKIN: Now, I think that's it, isn't it,
16 for you? I believe that's it, yeah. So the Motion to Compel
17 is granted to the extent indicated and otherwise denied. All
18 right. Let's move on to the Bureau's Motion to Compel.

19 MR. SCHAUBLE: Your Honor, may I make a statement
20 about that?

21 JUDGE CHACHKIN: All right.

22 MR. SCHAUBLE: At the time we filed our objections
23 we hadn't had a chance to fully review the -- all the
24 documents. We've now had an opportunity to review what I
25 think is the universe of producible documents. The objection

1 we had to the Bureau's document request and to Trinity with
2 respect to its Requests 28 and 31 was rather limited. At this
3 point in time we have not found any documents which would be
4 the subject of the objections. We agreed to the request in
5 part and -- so at this point, as far as we can tell, our
6 objections to the Bureau's motion and to Trinity with respect
7 to Requests 28 through 31 is academic at this point because,
8 as far as we can tell, there's no actual documents.

9 JUDGE CHACHKIN: Now, Request 2 by the Bureau dealt
10 with any documents relating to work that had been done in
11 connection with the LPTV stations? Is that -- that's what 2
12 and deals with, construction and proposed construction of LPTV
13 stations at Lancaster and Lebanon. And you're saying you have
14 no documents on that subject?

15 MR. SCHAUBLE: Well, we do -- we didn't object to
16 the documents.

17 JUDGE CHACHKIN: Oh, I see. You're saying that the
18 documents they do have would fall within the -- what you
19 consider to be permissible because it deals with the --

20 MR. SCHAUBLE: Correct, Your Honor.

21 JUDGE CHACHKIN: -- extension request --

22 MR. SCHAUBLE: Exactly.

23 JUDGE CHACHKIN: -- and they're co-extensive.
24 They're the same documents. They're the same. So you have no
25 objections to --

1 MR. SCHAUBLE: Correct, Your Honor.

2 JUDGE CHACHKIN: All right. And the Motion to
3 Compel -- the Bureau's Motion to Compel is granted. And
4 similarly you also have no objection to 28 and 31. The next
5 one we'll take up is Trinity's Motion to Compel Production of
6 Documents concerning the misrepresentation issue and as far as
7 28 and 31 is concerned, there's no objection to that.

8 MR. EMMONS: Your Honor, that's 28 through 31.

9 JUDGE CHACHKIN: 28 through 31. I gather there's no
10 objection.

11 MR. SCHAUBLE: That's correct, Your Honor.

12 JUDGE CHACHKIN: No objection to that. All right.
13 So what else do we have to deal with then?

14 MR. SCHAUBLE: I believe the, the first pending
15 objection we have, Your Honor, is 32 through 35.

16 JUDGE CHACHKIN: All right. Do you want to hear any
17 comments on this in response?

18 MR. SCHAUBLE: Yes, Your Honor. Your Honor added a
19 focus issue against Glendale whether certain statements made
20 in applications to extend low power construction permits were
21 representations or made with a lack of candor. We
22 respectfully submit that whether Ray Stay -- Requests 32
23 through 35 seek documents relating to any effort Ray Stay made
24 to sell these LPTV construction permits. We respectfully
25 submit that any efforts made to sell these permits have

1 nothing to do with the designated issue.

2 The issue is whether the specific statements in the
3 LPTV extension application were misrepresentations. Trinity
4 is now trying to dig for evidence that has nothing to do with
5 the designated issue. They seem to be making some sort of
6 argument that Trinity made -- that Ray Stay made
7 misrepresentations if they made efforts to try and sell the
8 construction permits. The issues upon which -- the statements
9 upon which Your Honor added the issue, the statements relating
10 to the transmitter site, were specified by Ray Stay in the
11 Lancaster and Lebanon LPTV construction permits.

12 I also believe that Trinity's argument in this
13 regard misconstrues the extension process. An applicant can
14 extend a construction permit at the same time it sells the
15 permit if it has made sufficient progress towards
16 construction. There is no prohibition on a permittee selling
17 its construction permit. The case, as Trinity cites, stands
18 for the proposition not that a permittee cannot sell the
19 permit, but that a permittee's desire to sell the permit is
20 not a basis for an extension.

21 If Ray Stay had gone before the Commission in its
22 LPTV extension application and said, you know, nothing has
23 been done but extend these permits for another six months so
24 we can sell the permits, the case as Trinity cites means that
25 the extension request could have been -- would have been

1 | denied because that would have been due to insufficient basis.

2 | The applicant's intent with respect to the extension
3 | application is not significant insofar as the extension
4 | applications are concerned. What's significant were the
5 | objective efforts made towards construction. The
6 | misrepresentation issue relates to the truth or falsity of the
7 | statements Ray Stay made concerning the objective efforts re
8 | construction.

9 | Documents relating to negotiations -- possible sales
10 | of these permits, particularly when no sale was ever
11 | consummated or no assignment application was ever filed, would
12 | not lead to the discovery of admissible evidence under this
13 | issue and I respectfully submit that it's just a fishing
14 | expedition.

15 | JUDGE CHACHKIN: Well, you yourself just said that
16 | if you'd told the Commission that the reason you've seeking
17 | this extension is in order to permit you to sell the permits,
18 | you wouldn't get an extension. The Commission would deny your
19 | extension request. Isn't that right?

20 | MR. SCHAUBLE: Well, Your Honor, if that was the
21 | only --

22 | JUDGE CHACHKIN: If that was the reason given, if
23 | you gave that as --

24 | MR. SCHAUBLE: That was -- if that was the sole
25 | reason. Now, there have been cases where if a permittee has

1 made sufficient progress for construction and if at the same
2 time it files an assignment permit, if the Commission looks at
3 the extension application and decides that, that yes,
4 sufficient efforts have been made, they'll grant the
5 assignment application and the extension application at the
6 same time, so there's no bar towards an assignment.

7 JUDGE CHACHKIN: But --

8 MR. SCHAUBLE: I don't think it cuts one way or the
9 other.

10 JUDGE CHACHKIN: Well, let's assume for the sake of
11 argument that this is a situation where your representations
12 concerning way you want an extension are not true and your
13 real motive was that you wanted an extension so that you would
14 have an opportunity to sell the permit.

15 MR. SCHAUBLE: Your Honor, I respectfully submit --

16 JUDGE CHACHKIN: Now, isn't that a reasonable --
17 isn't it reasonable for them to seek documents to determine
18 whether, in fact, your motive for misrepresenting facts was
19 because you were using this as a substitute, the excuses you
20 gave or the reasons you gave, a substitute for your real
21 reason which was to sell the permit at that time, and you had
22 to keep the permit alive by providing reasons that the
23 Commission would accept as justification?

24 MR. SCHAUBLE: Your Honor, as I understand the
25 misrepresentation issue, the misrepresentation issue relates

1 to --

2 JUDGE CHACHKIN: Your representations to the
3 Commission.

4 MR. SCHAUBLE: -- whether the -- were the efforts
5 made towards -- statements that were made concerning the
6 efforts made to construct the misrepresentation, not any
7 statements made concerning Ray Stay's motive for seeking the
8 extension request.

9 JUDGE CHACHKIN: Well, obviously that goes to intent
10 and that's a factor of misrepresentation. If it wasn't
11 intentional, then it's not a misrepresentation. It has to be
12 intentional deception and certainly a motive for deceiving the
13 Commission is certainly something to consider. It seems to me
14 that if there was offers or efforts being made to sell the
15 station at or about the time that you had filed these
16 extension requests that that would -- could lead to relevant
17 evidence and if that's what Trinity is seeking, it seems to me
18 they have a right to explore that, assuming that what you said
19 was a misrepresentation. We don't know yet. I mean, that has
20 to be discovered. But then if it was, then the next question,
21 was it an innocent misrepresentation? I mean, it was
22 something that you just -- counsel over-wrote or something,
23 more than -- made some general statements that perhaps
24 overstated the proposition of what had been done, or did it
25 have a -- was it an intentional deception because it was an

1 attempt to get permission to prove it so that you can continue
2 your efforts to try to sell the permit. I mean, these are
3 things that have to be developed in the record and have to be
4 considered in determining the severity of the conduct. So it
5 seems to me that anything which deals -- which is relevant to
6 the question of intent is permissible and -- now, what is
7 Requests 2 and 5 seeking? They're seeking -- in other words
8 --

9 MR. SCHAUBLE: Your Honor, 32 --

10 JUDGE CHACHKIN: If, as I understand their request,
11 is -- if they're looking for contemporaneous efforts to sell
12 the station -- contemporaneous, I mean contemporaneous with
13 your request for extensions of time --

14 MR. SCHAUBLE: Your Honor --

15 JUDGE CHACHKIN: -- then that's permissible.

16 MR. SCHAUBLE: Your Honor, there's no time
17 limitation.

18 JUDGE CHACHKIN: Well, that's another thing. That's
19 another thing. The fact that you later on turned and decided
20 not to build the station is irrelevant. It has nothing to do
21 with your extension request. It just has to, has to be with
22 efforts being made at or about the time that -- while you
23 filed your extension request. That part is relevant.

24 MR. COHEN: So you're -- I understand Your Honor to
25 say then that our client is required to turn over any -- if

1 they exist, any documents that are, that are contemporaneous
2 but, as Mr. Schauble pointed out, Trinity's request is -- has
3 no limitation.

4 JUDGE CHACHKIN: Well, I'm setting a time limit. I
5 don't see how it's relevant if it doesn't -- if it's not
6 contemporaneous with the extension request. Now, what's your
7 position, Mr. Emmons?

8 MR. EMMONS: Well, I think that there is implicitly
9 a time limitation built into definitions because all of these
10 refer to the "unbuilt" stations and that's a defined term
11 which refers to the -- obviously it refers to the issuance of
12 the construction period forward. The construction permits on
13 these stations were issued, as I recall, in July 1990 and the
14 first extension applications were filed in December of 1991.
15 It seems to me, Your Honor, that any effort during that 18
16 month period of time to sell the station would be relevant to
17 the question you've identified as motive or intent.

18 JUDGE CHACHKIN: Well, I would agree with that,
19 during that period of time, yes.

20 MR. EMMONS: Then, of course, with the second set of
21 extension applications filed in July 1992 and the same
22 analysis would apply to those, as well. So it's -- I believe,
23 Your Honor, the relevant period of time would be at least July
24 1990 when the permits were issued until July 1992 when the
25 second set of extension applications were filed, and to the

1 extent that an ongoing representation on file at the
2 Commission may be a misrepresentation of facts later developed
3 that make it an incorrect statement, I think that the -- any
4 efforts made after, after July '92 up until the permits were
5 turned in in I believe March or April of 1993 would also be
6 relevant. Beyond March or April of '93 obviously there's, you
7 know, the question of it because the permits by that time were
8 cancelled.

9 JUDGE CHACHKIN: You'll have to speak up. I'm
10 sorry. Why don't you have that thing in front of you.

11 MR. EMMONS: I'm sorry. I'm closer to you.

12 JUDGE CHACHKIN: Your contention is that the entire
13 period from the time they got their CP until the time they
14 disposed of it and turned in their CP is relevant?

15 MR. EMMONS: I think so, Your Honor, but at the very
16 least up until July 1992 when the second extension
17 applications were filed.

18 MR. SCHAUBLE: Your Honor, we don't see any
19 relevance to anything after July of 1992 since the issue
20 relates to whether the extension applications. Any efforts
21 made after July of 1992 could have no bearing on what was
22 filed with the Commission.

23 JUDGE CHACHKIN: I will limit it to July of 1992.
24 Anything else? I guess we have now --

25 MR. SCHAUBLE: Your Honor, I think the next one is

1 Request 60 and 61.

2 JUDGE CHACHKIN: 60 and 61.

3 MR. SCHAUBLE: Your Honor, Glendale has no objection
4 to examination of George Gardner's role in the preparation and
5 review of the extension applications with regard to matters
6 that are referenced in the extension applications. But here
7 Trinity seeks every piece of paper with George Gardner's name
8 on it relating to the low power station, including the low
9 power construction permit for which extension applications
10 were never even filed. We --

11 JUDGE CHACHKIN: Well, let me, let me just cut you
12 off right there. As far as the -- and York LPTV construction
13 permits, I'm not going to require you to produce those
14 documents. Let's strictly deal with Lancaster and Lebanon.

15 MR. SCHAUBLE: Thank you, Your Honor. There is
16 absolutely no limitations. These are extremely broad document
17 requests. 61 seeks all documents relating to the Ray Stay
18 LPTV stations that contain the name or signature of George F.
19 Gardner. I mean, that -- and that encompasses all -- I mean,
20 that encompasses virtually --

21 JUDGE CHACHKIN: What does it encompass? How much
22 could it include? I mean, what -- how many documents could it
23 include? You've already going to submit all the documents
24 relating to construction. We know who filed -- whose
25 signature is on the application. What other documents could

1 it -- and also you're going to submit documents concerned with
2 any efforts to sell the station. So what other -- how many
3 other documents could it include? I mean, obviously they
4 pointed out, which is -- it's obvious what your defense could
5 be, namely that George Gardner was unaware of the, of the
6 representations made. He didn't play a part in it because he
7 didn't -- he was not the one who communicated with counsel and
8 we have something -- I think was it -- his brother was the one
9 who communicated --

10 MR. SCHAUBLE: His son.

11 JUDGE CHACHKIN: His son. I'm sorry. His son. So
12 they want to see to what extent George Gardner was involved in
13 Ray Stay's affairs to argue that he should have known or he
14 did know what was going on. I assume -- it seems to me that's
15 a reasonable hypothesis. That's going to be your defense and
16 that's why they want to be able to have documents to see
17 whether or not --

18 MR. SCHAUBLE: And to be clear, Your Honor, with
19 respect to the matters at issue here, the extension
20 applications and the actions referenced in the extension
21 applications, we have no objection to producing documents in
22 that regard. We think documents that go beyond that are
23 speculative and have no bearing on the issue. It would be
24 overbroad.

25 JUDGE CHACHKIN: Well, they're not speculative.

1 They may have a bearing on to what extent he knew or should
2 have known about the -- the representations that were made,
3 the extent to which he was involved in these applications and
4 these CPs. Did he -- did -- was everything left to his son or
5 did Mr. Gardner somehow play some kind of role in all this? I
6 mean, that's obviously the purpose of it and assuming that you
7 take the position which -- it's reasonable to assume that
8 George Gardner was unaware of these things and these things
9 were done without his knowledge or consent and, therefore,
10 he's the applicant here and, therefore, he should not be --
11 even if there were misrepresentations made, there's no reason
12 to hang the collar around Mr. Gardner. So obviously they want
13 to see whether -- to what extent -- whether that is a valid
14 basis for that and namely whether Mr. Gardner was, in fact,
15 involved in these things and knew or should have known about
16 these representations made to the Commission. So I'm going to
17 grant the request for any documents showing Mr. Gardner's
18 involvement in Ray Stay's affairs insofar as concerns the
19 Lancaster and Lebanon CPs.

20 MR. SCHAUBLE: Would that also include all documents
21 that contain his name even if it was a document written by --
22 that happens to casually refer to Mr. Gardner?

23 MR. EMMONS: That could be -- lead to relevant
24 evidence, Your Honor.

25 JUDGE CHACHKIN: If it's a document which in some